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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,631

07/21/2003

Manuel R. Silva JR.

73434-060US

4556

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EXAMINER

GORMAN, DARREN W

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

07/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/622,631

Applicant(s)

SILVA ET AL.

Examiner

Darren W. Gorman

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008 and 06 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4,6,7,11,27-51,55-57,136 and 138-160 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,6,7,11,27-51,55-57,136,138-157 and 160 is/are allowed.
- 6) ☒ Claim(s) 158 and 159 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on May 6, 2008 has been entered.

### ***Information Disclosure Statement***

2. The IDS forms filed on May 6, 2008 and June 6, 2008 are hereby acknowledged. It was noted that US Patent No. 5,775,431 to Ondracek, cited on the IDS filed May 6, 2008, was previously cited on an IDS filed April 23, 2004. In an effort to prevent the aforementioned reference from being a duplicate citation on a patent issued from the instant application, the Examiner has lined through the reference on the May 6, 2008 filed IDS.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 158 and 159 are rejected under 35 U.S.C. 102(b) as being anticipated by Ondracek, USPN 5,775,431.

Ondracek (see Figures 8-11) shows a sprinkler (130) comprising: a frame (136); a trigger assembly (158) mounted to the frame; an outer structure assembly (132, 138) including an inlet and an outlet, the outlet being coupled to the frame; a closure assembly (144) disposed at the inlet of the outer structure assembly; and an inner assembly (152, 162) extending between the trigger assembly and the closure assembly, wherein the inner assembly includes a multi-legged support member (162) engaging the closure assembly and a fluid tube (152) engaging the support member, and wherein the support and the fluid tube are slidable relative to the outer structure assembly (see column 5, line 54 through column 6, line 51).

5. Claim 158 is rejected under 35 U.S.C. 102(b) as being anticipated by Sclafani, USPN 4,228,858.

Sclafani (see Figure 1) shows a sprinkler (10) comprising: a frame (48); a trigger assembly (54) mounted to the frame; an outer structure assembly (12) including an inlet and an outlet, the outlet being coupled to the frame; a closure assembly (42, 36) disposed at the inlet of the outer structure assembly; and an inner assembly (14, 38, 40) extending between the trigger assembly and the closure assembly, wherein the inner assembly includes a support (38, 40) engaging the closure assembly and a fluid tube (14) engaging the support member, and wherein the support and the fluid tube are slidable relative to the outer structure assembly (see column 5, lines 34-64).

***Allowable Subject Matter***

6. Claims 4, 6, 7, 11, 27-51, 55-57, 136, 138-157 and 160 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art, alone or in combination, did not show or teach a sprinkler including the first means for translating the metallic disc annulus along the longitudinal axis between a first position and a second position and the second means for repositioning the central axis of the face skewed to the longitudinal axis within the passageway between the first position and the second position, the second means being located between the first and second position and longitudinally spaced from the support member for the metallic disc annulus when the annulus is in either one of the first and second positions, together with the other recited limitations as set forth in claim 154.

The prior art, alone or in combination, did not show or teach a sprinkler including the metallic disc annulus being arranged with the central axis of the face being skewed from the longitudinal axis within the passageway when the locator is proximate the second position, and a member that contacts the metallic disc annulus to translate the face of the metallic disc annulus to a side of the longitudinal axis when the locator moves from the first position toward the second position, together with the other recited limitations as set forth in claim 155.

The prior art, alone or in combination, did not show or teach a sprinkler including the metallic disc annulus being arranged with the central axis of the face being skewed from the longitudinal axis within the passageway when the locator is proximate the second position, and a projection extending from the inner surface of the structure, the projection having a free end

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located in the passageway, the free end contacting the metallic disc annulus to translate the face of the annulus to a side of the longitudinal axis when the locator moves from the first position towards the second position, together with the other recited limitations as set forth in claim 156.

The prior art, alone or in combination, did not show or teach a sprinkler including a projection coupled to the tubular outer structure, the projection extending in the passageway toward the longitudinal axis, the projection contacting the closure assembly to translate the closure assembly to a side of the longitudinal axis when the inner tubular assembly moves from the first position towards the second position, together with the other recited limitations as set forth in claim 157.

The prior art, alone or in combination, did not show or teach a sprinkler including a sleeve disposed within the outer structure assembly and including a projection extending toward the longitudinal axis for engaging the closure assembly when the trigger assembly is actuated, together with the other recited limitations as set forth in claim 160.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901.

The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W Gorman/  
Primary Examiner, Art Unit 3752

/D. W. G./  
Primary Examiner, Art Unit 3752